

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DISTRICT**

TRAILS AT MOUNT MORIAH,

Plaintiff,

v.

No. 2:19-cv-02529-MSN-cgc

MAHOGANY JOHNSON,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION, REMANDING THIS
ACTION TO SHELBY COUNTY GENERAL SESSIONS COURT, DENYING
DEFENDANT’S MOTION TO REMAND AS MOOT, AND CERTIFYING AN APPEAL
WOULD NOT BE TAKEN IN GOOD FAITH**

Before the Court is the Magistrate Judge’s Report and Recommendation, filed August 14, 2019 (“Report”). (ECF No. 9.) The Report recommends that this case be remanded *sua sponte* due to lack of subject matter jurisdiction. (*Id.* at PageID 33.) For the reasons set forth herein, the Court **ADOPTS** the Report, **REMANDS** the detainer action back to the Shelby County General Sessions Court, **DENIES AS MOOT** Defendant’s Motion to Remand (ECF No. 8), and **CERTIFIES** that any appeal would not be taken in good faith.

Congress enacted 28 U.S.C. § 636 to relieve the burden on the federal judiciary by permitting the assignment of district court duties to magistrate judges. *See United States v. Curtis*, 237 F.3d 598, 602 (6th Cir. 2001) (citing *Gomez v. United States*, 490 U.S. 858, 869–70 (1989)); *see also Baker v. Peterson*, 67 Fed. Appx. 308, 310 (6th Cir. 2003). For dispositive matters, “[t]he district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. §636(b)(1). After reviewing the

evidence, the court is free to accept, reject, or modify the magistrate judge's proposed findings or recommendations. 28 U.S.C. § 636(b)(1). The district court is not required to review—under a de novo or any other standard—those aspects of the report and recommendation to which no objection is made. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). The district court should adopt the magistrate judge's findings and rulings to which no specific objection is filed. *See id.* at 151.

The deadline to object to the Report has passed, and Plaintiff has filed no objections. The Court has reviewed the Report for clear error and finds none. For the foregoing reasons, the Court **ADOPTS** the Report, **REMANDS** the detainer action back to the Shelby County General Sessions Court, and **DENIES AS MOOT** Defendant's Motion to Remand.

Pursuant to 28 U.S.C. § 1915(a)(3), the Court must also consider whether an appeal by Plaintiff in this case would be taken in good faith. The good faith standard is an objective one. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). An appeal is not taken in good faith if the issue presented, such as subject matter jurisdiction here, is frivolous. *Id.* The same considerations that lead the Court to remand this matter due to lack of subject matter jurisdiction also compel the conclusion that an appeal would not be taken in good faith. Therefore, it is **CERTIFIED**, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal in this matter by Plaintiff would not be taken in good faith.

IT IS SO ORDERED this 29th day of August, 2019.

s/ Mark S. Norris
MARK S. NORRIS
UNITED STATES DISTRICT JUDGE